

# **EXHIBIT 1**

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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA  
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12                 UGOCHUKWU GOODLUCK  
13                 NWAUZOR and FERNANDO AGUIRRE  
14                 URBINA, individually and on behalf of all  
15                  those similarly situated,

16                  Plaintiffs,

17                  v.

18                  THE GEO GROUP, INC., a Florida  
19                  corporation,

20                  Defendant.

21                  CASE NO. 3:17-cv-05769-RJB  
22                  ORDER ON PLAINTIFFS'  
23                  MOTION FOR CLASS  
24                  CERTIFICATION AND  
                     DEFENDANT'S MOTION TO  
                     DENY CLASS CERTIFICATION

25                  THIS MATTER comes before the Court on Plaintiffs' Motion for Class Certification and  
26                  Defendant's Motion to Deny Class Certification. Dkts. 69, 86. The Court has considered the  
27                  motions, the pleadings filed in support of and opposition to the motions, and the remainder of the  
28                  file herein. The Court also considered oral argument on August 2, 2018.

29                  GEO's core opposition to class certification centers on the argument that Plaintiffs are  
30                  "unemployable" by GEO because they lack work authorization, so they cannot represent the  
31                  proposed class of detainees seeking for lost wages under the State Minimum Wage Act (MWA).

1 GEO has interwoven this argument in its briefing for both motions. *See, e.g.*, Dkt. 69 at 15-23;  
2 Dkt. 95 at 5, 6, 14; Dkt. 99 at 9-15. The argument begins from a premise, one of at least two  
3 plausible interpretations of the GEO-ICE Contract and related Volunteer Work Program (VWP)  
4 policies, but ignores the second plausible interpretation of the same. While the argument is not  
5 frivolous, the Court now declines to make the findings urged by GEO, and class certification  
6 should not be denied on such grounds.

7       The Court HEREBY FINDS:

8       1.      The proposed class meets the criteria of Fed. R. Civ. P. 23(a):

9           A.     Evidence presented by Plaintiffs indicates that the proposed class  
10          comprises at least several hundred individuals, satisfying Fed. R. Civ. P. 23(a)(1).

11           B.     Common issues of law and fact satisfy Fed. R. Civ. P. 23(a)(2), including:  
12          whether proposed class members have an employment relationship with GEO for MWA  
13          purposes, given *inter alia*, terms of the GEO-ICE Contract, the 2011 Performance Based  
14          National Detention Standards, various policies of GEO and ICE, and federal law; and  
15          whether Plaintiffs' MWA claim should be preempted by federal law. Common answers  
16          will resolve these common issues.

17           C.     Plaintiffs' claims are typical of the claims of the class, satisfying Fed. R.  
18          Civ. P. 23(a)(3), because the claims arise from evidence pointing to a common course of  
19          conduct, that is, participation in the VWP at the Northwest Detention Center, and the  
20          same alleged injury, that is, compensation at \$1 per day of work, an amount not  
21          commensurate with the MWA.

1           D. Plaintiffs are adequate class representatives, satisfying Fed. R. Civ. P.  
2           23(b)(3), because there are no conflicts with the other members of the proposed class and  
3           they appear willing and able to prosecute this case vigorously on behalf of the class.

4           2. The proposed class satisfies the criteria of Fed. R. Civ. P. 23(b)(3):

5           A. The common questions identified predominate over other issues, including  
6           damages.

7           B. A class action is the superior method of adjudicating these claims and  
8           defenses, because class adjudication promotes the fair and efficient litigation of the case,  
9           given: (1) high costs of litigating threshold issues and potentially nominal recovery for  
10          individual proposed class members; (2) no other similar litigation by the same plaintiffs,  
11          except insofar as this case overlaps with *State of Washington v. The GEO Group, Inc.*,  
12          W.D.Wash. Case No. 17-5860, a case with unique issues specific to the State as the  
13          plaintiff; (3) proposed class members may have individual impediments to their ability to  
14          individually litigate the case.

15          3. Plaintiffs' counsel is competent to represent the class and has shown the ability  
16          and willingness to prosecute this case vigorously on behalf of the class, satisfying Fed. R. Civ. P.  
17          23(g).

18          THEREFORE, it is HEREBY ORDERED:

19          1. Defendant's Motion to Deny Class Certification (Dkt. 69) is DENIED.

20          2. Plaintiffs' Motion for Class Certification (Dkt. 86) is GRANTED pursuant to Fed.  
21          R. Civ. P. 23(a) and 23(b)(3).

22          3. The class shall be defined as:

1 All civil immigration detainees who participated in the Voluntary Work Program  
2 at the Northwest Detention Center at any time between September 26, 2014, and  
the date of final judgment in this matter.

3 4. Plaintiffs Ugochuk Goodluck Nwauzor and Fernando Aguirre-Urbina are  
4 appointed as representative of the class pursuant to Fed. R. Civ. P. 23.

5 5. Adam J. Berger, Jamal N. Whitehead, and Lindsay L. Halm of Schroeter  
6 Goldmark & Bender, R. Andrew Free of the Law Office of R. Andrew Free, Devin T. Theriot-  
7 Orr of Sunbird Law, PLLC, and Meena Menter of Menter Immigration Law PLLC are appointed  
8 as Class Counsel pursuant to Fed. R. Civ. P. 23(g).

9 6. The parties are directed to confer on the form of Class Notice and preparation of a  
10 class list and notice plan. The parties shall jointly present a proposed Class Notice and notice  
11 plan to the Court within 30 days of the date of this Order. If they cannot agree on a form of Class  
12 Notice and notice plan within that time, each party shall submit its proposed Class Notice and  
13 notice plan along with an explanatory statement not to exceed six (6) pages within 30 days of the  
14 date of this Order.

15 7. To the extent that Defendant has objected to producing discovery because a class  
16 has not been certified, the objection is now moot, and Defendant must now produce the  
17 discovery.

18 IT IS SO ORDERED.

19 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
20 to any party appearing *pro se* at said party's last known address.

21 Dated this 6<sup>th</sup> day of August, 2018.

22   
ROBERT J. BRYAN

23 United States District Judge  
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**FILED**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

NOV 8 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UGOCHUKWU GOODLUCK NWAUZOR  
and FERNANDO AGUIRRE-URBINA,  
individually and on behalf of all those  
similarly situated,

Plaintiffs-Respondents,

v.

THE GEO-GROUP, INC., a Florida  
corporation,

Defendant-Petitioner.

No. 18-80095

D.C. No. 3:17-cv-05769-RJB  
Western District of Washington,  
Tacoma

ORDER

Before: NGUYEN and OWENS, Circuit Judges.

Petitioner's motion for leave to file a reply in support of its petition (Docket Entry No. 8) is granted. The Clerk shall file the reply attached as an exhibit to Docket Entry No. 8.

The court, in its discretion, denies the petition for permission to appeal the district court's August 6, 2018 order granting class action certification. *See Fed. R. Civ. P. 23(f); Chamberlain v. Ford Motor Co.*, 402 F.3d 952 (9th Cir. 2005).